

PUBLIC

NASD

Arbitration

N.A.S.D. AWARD

NATIONAL ASSOCIATION OF SECURITIES DEALERS

National Association of
Securities Dealers, Inc.
NASD Financial Center
33 Whitehall Street
New York, N.Y. 10004
FAX (212) 858-4389

In the Matter of the Arbitration Between

Name of Claimant

Arthur A. Pachter

vs.

91-02184

Name of Respondent

Smith Barney Harris Upham & Co., Inc.

REPRESENTATION

For Claimant: Andrew L. Miller, Esq. of Astor, Weiss & Newman

For Respondent: Judith C. Greene, Esq. of Smith Barney Harris Upham & Co., Inc.

CASE INFORMATION

Statement of Claim filed by Claimant, Arthur A. Pachter, ("Claimant"): July 18, 1991

Claimant's Submission Agreement signed on: July 8, 1991

Statement of Answer filed by Respondent, Smith Barney Harris & Upham & Co., Inc., ("Respondent") August 22, 1991

Respondent's Submission Agreement signed on: August 21, 1991

HEARING INFORMATION

Pre-Hearing Conference: March 16, 1992 - One Session.

Hearing Date/Sessions: March 17, 1992 - Three Sessions.

Hearing Location: NASD - Philadelphia, PA

CASE SUMMARY

Claimant alleged that he maintained a margin account with Respondent. Claimant alleged that he purchased 5,000 shares of common stock of Bloc Development Corp. ("Bloc"). Claimant alleged that subsequently, he requested Respondent, through Respondent's agent Matthew O'Mahoney ("O'Mahoney") to sell all 5,000 shares of Bloc. Claimant alleged that O'Mahoney advised him to delay this sale and Claimant agreed to do so. Claimant alleged that O'Mahoney purchased an additional 7,000 shares of the same stock without his authorization. Claimant alleged that he notified O'Mahoney of his mistake and that O'Mahoney agreed to rectify the error. Claimant alleged that Respondent sold all Claimant's holdings in Bloc to satisfy margin calls as the price of the stock declined and that Claimant suffered a loss of \$43,938.60 as a result of Respondent's actions.

Respondent maintained that O'Mahoney purchased 5,000 shares of Bloc upon Claimant's authorization. Respondent maintained that at a later date, again on Claimant's instructions, O'Mahoney purchased an additional 7,000 shares of Bloc stock.

Respondent maintained that Claimant received confirmations of the purchase of the additional 7,000 shares of Bloc stock. Respondent maintained that Claimant at no time complained about the additional purchase of stock. Respondent maintained that monthly statements were sent to Claimant which showed these transactions clearly. Respondent maintained that at no time did Claimant complain about these transactions, nor did Claimant exercise a sell order.

Respondent maintained that as the price of Bloc shares declined, Claimant refused to add cash to his account to meet the margin debt. Respondent maintained that they sold shares of stock in Claimant's account to meet the margin calls. Respondent maintained that Claimant did not complain of the sales of Bloc to pay off margin debt.

RELIEF REQUESTED

Claimant requested an award of \$65,431.10.

Respondent requested that the claim be dismissed in its entirety and that costs be assessed against the Claimant.

AWARD

After considering the pleadings, the testimony and the evidence presented at the hearing, the undersigned arbitrator has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimant, Arthur A. Pachter's, Claim is hereby dismissed in its entirety.

FORUM FEES

Pursuant to Section 43c of the Code of Arbitration Procedure, the following Forum Fees are assessed.

1. Claimant, Arthur A. Pachter, is assessed the \$150.00 non-refundable filing fee.
2. Respondent, Smith Barney Harris Upham & Co., Inc. is assessed the forum fees of \$1,500.00 (3 hearing sessions x \$500.00).
3. Claimant is assessed the postponement fee of \$500.00 for the hearing scheduled for January 17, 1992 and Claimant shall receive a credit of \$500.00 which was previously paid.

Concurring Arbitrator Signature
Name


Guillermo L. Bosch, Esq.

Public Chairperson

Date of Decision: April 21, 1992


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Concurring Arbitrator Signature

Name


Albert Mancini, Jr.

Public Arbitrator

Date of Decision: April 21, 1992

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Concurring Arbitrator Signature

Name


Michael Quarto

Industry Arbitrator

Date of Decision: April 21, 1992